



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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DA 05-86
January 14, 2005

**MCKINLEY COMMUNICATIONS, LLC SEEKS COMMISSION
DETERMINATION OF "EXEMPT TELECOMMUNICATIONS COMPANY"
STATUS UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT**

Comp. Pol. File No. ETC 04-08
Pleading Cycle Established

Comments Due: January 31, 2005

Reply Comments Due: February 7, 2005

On December 23, 2004, **McKinley Communications, LLC** (McKinley or Applicant), located at **134 Sixth Street, S.W., Canton, OH 44702**, submitted an application requesting a determination by the Federal Communications Commission (FCC or Commission) that it is an "exempt telecommunications company" (ETC), pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA), 15 U.S.C. §§ 79 *et seq.*, as amended by section 103 of the Telecommunications Act of 1996, Pub. L. No. 104-104, and section 1.5002 of the Commission's rules, 47 C.F.R. § 1.5002.

The application indicates that McKinley is an Ohio limited liability company based in Canton, Ohio and controlled by Marbel Investments, LLC, an investment company owned in equal shares by Marshall Belden, Timothy and Susan Belden, and Katherine Belden. McKinley states that it was created for the purpose of investing exclusively in telecommunications assets, and that it has reached an agreement in principle whereby McKinley will acquire, from FirstEnergy Corp. (FirstEnergy), a 51 percent ownership interest in First Communications LLC (First), a limited liability company based in Akron, Ohio. McKinley indicates that after closing its transaction with FirstEnergy, it will be indirectly and exclusively engaged through First in the business of providing: (a) telecommunications services; (b) information services; (c) other services or products subject to the jurisdiction of the Commission; and/or (d) products or services that are related or incidental to the provision of the products or services described in (a), (b), or (c). Specifically, McKinley states that First is a common carrier that provides local, long distance, dedicated, private line and toll-free services, as well as conference calling packages, calling and prepaid calling cards, and Internet access to business and residential customers in several states in the U.S. According to McKinley, First currently provides telecommunications services to approximately 70,000 customers located primarily in Florida, Ohio, Indiana and Michigan. The application indicates that in addition to these services, McKinley may in the future engage in other activities that fall within the categories set forth under section 34(a) of the PUHCA.

In accordance with section 1.5003, 47 C.F.R § 1.5003, a person applying in good faith for a Commission determination of ETC status is deemed to be an ETC from the date of receipt of the application, in this case **December 23, 2004**, until the date of Commission action pursuant to section 1.5004. In accordance with section 1.5004 of the Commission's rules, 47 C.F.R § 1.5004, if the

Commission does not take action by issuing an order denying an ETC application within sixty (60) days of receipt of an application, in this case **February 21, 2005**, the application will be deemed granted as a matter of law. In accordance with section 1.5005, 47 C.F.R. § 1.5005, the Secretary of the Commission will notify the Securities and Exchange Commission (SEC) if the Applicant is determined to be an Exempt Telecommunications Company.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules, 47 C.F.R. §§ 1.1200 - 1.1216. Pursuant to section 1.5007 of the Commission's rules, 47 C.F.R. § 1.5007, interested parties may file comments on or before **January 31, 2005** and reply comments are due on or before **February 7, 2005**. Comments in this proceeding may not be filed using the Commission's Electronic Comment Filing System (ECFS). All filings concerning any of the matters referenced in this Public Notice should refer to **Comp. Pol. File No. ETC 04-08**. All comments should also be served on the Applicant at the address listed above.

Interested parties should file an original and four (4) copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 12th St., S.W., Room TW-A325, Washington, D.C. 20554. In addition, parties should send one (1) copy to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C., 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM, and two (2) copies to Carmell Weathers, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Portals II, 445 12th Street, S.W., Room 5-C327, Washington, D.C. 20554. Commenters are also requested to fax their comments to the FCC at (202) 418-1413, Attention: Carmell Weathers.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The application will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, telephone (202) 418-0270. A copy of the application may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM.

For further information, contact Carmell Weathers, (202) 418-2325 (voice), carmell.weathers@fcc.gov, or Rodney McDonald, (202) 418-7513 (voice), rodnev.mcdonald@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau. The TTY number is (202) 418-0484.

-FEDERAL COMMUNICATIONS COMMISSION-